

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

THE LOUIS D. BRANDEIS CENTER  
FOR HUMAN RIGHTS UNDER LAW  
and JEWISH AMERICANS FOR FAIRNESS IN  
EDUCATION,

Plaintiffs,

v.

PRESIDENT AND FELLOWS OF HARVARD  
COLLEGE,

Defendant.

Case No. 1:24-cv-11354-RGS

**DEFENDANT’S UNOPPOSED MOTION FOR LEAVE TO FILE A  
REPLY MEMORANDUM IN SUPPORT OF MOTION TO DISMISS**

Pursuant to Local Rule 7.1(b)(3), Defendant President and Fellows of Harvard College (“Harvard”) respectfully seeks leave to submit a 10-page Reply in support of its Motion to Dismiss Plaintiffs’ Complaint (Dkt. 47). Harvard is prepared to file its Reply by Tuesday, September 10, 2024. Undersigned counsel contacted counsel for Plaintiffs to confer regarding Plaintiffs’ position on this motion, and Plaintiffs do not oppose this motion.

A Reply memorandum is necessary because in their Opposition (Dkt. 53), Plaintiffs make unanticipated contentions and assertions of law and fact that require a response. Most importantly, Plaintiffs rely extensively on decisions of this Court that were issued only after Harvard submitted its opening motion on July 22, 2024, arguing that dismissal is precluded by this Court’s decision granting in part and denying in part Harvard’s motion to dismiss in *Kestenbaum v. President and Fellows of Harvard College*, No. 1:24-cv-10092-RGS, Dkt 93 (Aug. 6, 2024), and this Court’s decision granting MIT’s motion to dismiss in *StandWithUs*

*Center for Legal Justice v. Massachusetts Institute of Technology*, 2024 WL 3596916, at \*3-4 (D. Mass. July 30, 2024). Throughout their Opposition, Plaintiffs also mischaracterize the facts alleged in their Complaint, the contents of documents Plaintiffs attached as exhibits to their Complaint, and cherry-picked statements from Harvard's previously filed motion to consolidate (which this Court did not grant). A Reply is necessary to allow Harvard to respond to these discussions and to explain why dismissal of this case is warranted in light of the Court's decisions in *Kestenbaum* and *StandWithUs*. Allowing Harvard to file this Reply will not cause delay in the consideration of these issues because Harvard will file its Reply within one week of today's date.

WHEREFORE, Harvard respectfully requests that the Court grant its motion for leave to file a Reply in support of its Motion to Dismiss.

DATED: September 3, 2024

Respectfully Submitted,

PRESIDENT AND FELLOWS OF HARVARD  
COLLEGE

By its attorneys,

/s/ Felicia H. Ellsworth

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**LOCAL RULE 7.1 CERTIFICATION**

In accordance with Local Rule 7.1(a), the undersigned hereby certifies that on September 2, 2024, counsel for Harvard contacted counsel for Plaintiffs in order to confer regarding Plaintiffs' position on this motion, and on September 3, 2024, counsel for Plaintiffs informed counsel for Harvard that Plaintiffs do not oppose this motion.

/s/ Felicia H. Ellsworth  
Felicia H. Ellsworth

**CERTIFICATE OF SERVICE**

I hereby certify that on September 3, 2024, I caused this document to be filed through the CM/ECF system, where it will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Felicia H. Ellsworth  
Felicia H. Ellsworth